



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

| | | | | |
|--|-------------|----------------------|---------------------|------------------|
| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/669,869 | 09/21/2000 | Thomas Vaughn Wilder | DAREDEV.018RA | 4598 |
| 20995 7590 08/19/2009 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614 | | | | |
| EXAMINER | | | | |
| RESTIPO, JEFFREY J | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3618 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 08/19/2009 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary

Application No.

09/669,869

Applicant(s)

WILDER ET AL.

Examiner

Jeffrey J. Restifo

Art Unit

3618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/21/2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Election/Restrictions

1. The restriction regarding method claims 29-35 and 46-53 has been withdrawn because it was not timely submitted in the prosecution. Examiner note: Applicant is asked to remove the underlining from the formally new claims 13-53, except for limitations that were added after they were originally submitted. New claims do not need to be entirely underlined.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 6, 12, 13, 17-20, 22-24, 26-27, 36-38, 40-43, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 5,533,740 A) and in further view of Forward et al. (US 4,034,995 A).

Lin discloses an in-line skate comprising a heel attachment member or flanged section 30 with mounting holes 310, a forefoot attachment member or flanged section 20 with mounting holes 210, a pair of left and right laterally spaced elongate longitudinal support or chassis members 11 with lower parallel portions with wheels 50 attached and upper portions attaching said heel and forefoot members, and chamfered connecting webs forming openings between the wheels, as shown in figures 1-3. Lin does not

disclose the longitudinal frames as being inclined and convergent at the upper portions. Forward et al. does disclose a skate having inclined and convergent members 31, 32, forming an A-frame for securing the wheels 24 to skate 11, as shown in figures 12 and 22. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Lin with the inclined and convergent members of Forward et al. in order to allow the longitudinal member to accommodate wider wheels.

With respect to claims 27, the method of forming the chassis has been given little patentable weight unless it produces an unexpected result and welding is a well-known method for forming metal skates and it would have been obvious to one having ordinary skill in the art at the time of the invention to have welded the chassis members together in order to provide a strong connection with the web members, which is a well-known benefit in the art of welding.

With respect to method claims 29-35 and 46-53, the method recited in these claims is inherently performed in the manufacturing of the skate of Lin as modified by Forward et al. described above.

3. Claims 2, 3, 7-11, 16, 21, 25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin, as modified by Forward et al., as applied to claims 1, 5, 13, 22, and 36 above, and further in view of Hoshizaki (US 5,505,470 A).

Neither Lin nor Forward et al. disclose ribs, elongate openings, rockerable axle holes, or unibody construction on the chassis. Hoshizaki does disclose a skate comprising rockerable axle holes 5, ribs (not numbered), horizontal elongate hole (not numbered), and unibody construction, as shown in figures 1-8. It would have been

obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Lin as modified by Forward et al. with the rockerable axles, ribs, elongate holes, and unibody construction of Hoshizaki in order to adjust the height of each wheel, increase lateral strength, decrease weight, and increase connection rigidity of the skate chassis, respectively.

With respect to claim 8, the material used to make the skate has been given little patentable weight unless it produces an unexpected result, and the use of aluminum is well-known in the art and it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the skate chassis of Lin as modified by Forward et al. and Hoshizaki, out of aluminum in order to have a strong yet lightweight chassis, which is a well-known benefit of aluminum.

Allowable Subject Matter

4. Claims 28 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 4/28/09 have been fully considered but they are not persuasive. With respect to the applicant's arguments concerning claims 1, 13, 22, and 36, the Forward et al. reference was only used as an example of laterally widening the sidewalls in order to accommodate a wider wheel and applying this concept to the Lin

reference is considered to be well-known in the art and can be done without undue experimentation. Further, the concept of making the skate body integral, unitary, or unibody is considered well-known in the art of molded plastics and polymer skate bodies. Since the restriction has been withdrawn, this action is made non-final.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on Monday-Thursday 10am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey J Restifo

Application/Control Number: 09/669,869
Art Unit: 3618

Page 6

Primary Examiner
Art Unit 3618

/Jeffrey J Restifo/
Primary Examiner, Art Unit 3618